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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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|-----------------|-------------|----------------------|---------------------|------------------|

09/936,325

09/12/2001

Colin Thomas Mallett

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11/18/2005

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EXAMINER

NGUYEN, HANH N

ART UNIT

PAPER NUMBER

2668

DATE MAILED: 11/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/936,325

Applicant(s)

MALLETT ET AL.

Examiner

Hanh Nguyen

Art Unit

2668

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Amendment filed on 09/15/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-16 and 19-28 is/are rejected.
- 7) ☒ Claim(s) 17, 18, 29 and 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.



HANH NGUYEN
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/8/02:9/15/05.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claims 8, 13 15, 16 and 25 and are objected to because of the following informalities:

In claim 8, it is not clear on line 2, what is meant by “fro the destination device ...”

In claims 15 and 16, it is not clear on line 2 what is meant by “and/or” . Applicant is required to explicitly address either “and” or “or”.

It appears that claims 13 and 25 are duplicated of claim 8. Applicant is required to either cancel or amend claims 8 or 13.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 6-11, 13-16, 19-23 and 25-28 are rejected under 35 USC 102(e) as being anticipated by Tracy et al. (US Pat. 6,014,089).

In claims 6 and 19, Tracy et al. discloses a network terminating unit (fig.6, data collection device 101) for receiving digital data (receiving a request data in digital format (see col.7, lines 14-15) from a remote 140, fig.6, see col.3, lines 15-25) via a communications link comprising a signaling channel and at least one data channels (data is transmitted in ISDN format which inherently comprises a signaling channel D and a plurality of data channels B, see col.5, lines 50-55); the signaling channel (the request from remote device 140) being operable to establish and control connections between the network terminating unit (data collection device 101) and one or more data sources (remote device 140) via the communications link that data can be transferred from the data source to the network terminating unit via at least one data channel, the network terminating unit (the data collection device 101, fig.6) comprising: a processor (short message controller 109, fig.6) arranged to detect messages transmitted on the signaling channel that contain at least partial data of a predetermined type (receiving request containing short messages from remote device 140, fig.13, lines 50-55 or fig.5, col.8, lines 25-40), the detected messages comprising sufficient information to enable the network terminating unit to establish how parts of data (requested data) of the same predetermined type (short message) sent in separate messages are linked (interpretes the short message) to enable the network terminating unit to reconstitute the data (compose the short message); means arranged to extract the at least partial data (retrieving the short message); and means arranged to store (save the short message in EPROM, fig.5, col.8, lines 10-20) the at least partial data for passing to a first destination device; wherein the network terminating unit is arranged to establish how

partial data detected in separate signaling messages are linked and to reconstitute the data from said plurality of signaling messages (short message controller 106 collects, saves, retrieves, interpretes received short message and composes the short message that contains the requested data , see col.13, lines 50-65 & col.3, lines 15-25).

In claims 7 and 20, as disclosed in the rejection of claim 6, Tracy discloses the network terminating unit (data collection device 101, fig.6) comprising the at least partial data is reconstituted prior to being passed to a first destination device (meter device 100, see fig.6). See col.7, lines 20-30 and col. 9, lines 10-15

In claims 8, 13 and 25, Tracy discloses a network terminating unit as in claim 6 further comprising: means operable to send at least partial data received from the destination device (data collection device 101, fig.6) to further destination devices (a plurality of meters 100) using messages transmitted on the signaling channel (request message transmitted in ISDN format).See col.7, lines col.7, lines 20-30).

In claims 9 and 21, the limitations of these claims have been addressed in claim 6.

In claims 10 and 22, Tracy discloses a network terminating unit as in claim 6 in which the at least partial data is at least part of an e-mail or other textual message (short message, see claim 6).

In claims 11 and 23, Tracy discloses the predetermined type of partial data comprises at least one of the group consisting of: a software download data, database search results, news information (weather news, see col.8, lines 50-52) or telemetry data (meter readings such as gas water and electrical readings from meter devices 100, see col.7, lines 40-50).

In claims 16 and 28, Tracy discloses means operable to send and/or receive the data of a predetermined type during a predetermined time interval (data collection device 101 is instructed to collect data from meter reading 100 on an hourly interval, see col.13, lines 43-47).

In claims 14 and 26, Tracy discloses means operable to detect signaling messages indicating the set up of a connection (CPU 210 detecting data from meter device 220, see col.8, lines 25-35) to a predetermined destination device (meter device 2202) and in response to such detection to transmit the data stored by the network terminating unit to the predetermined destination device (collect data from meter device 220).

In claims 15 and 27, Tracy discloses means (base station controller 106, fig.1) operable to monitor the activity of the signaling channel and to send and/or receive the data of a predetermined type (short message) when the signaling channel activity is within a predetermined range.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12, 24 are rejected under 35 USC 103(a) as being unpatentable over Tracy et al. (US Pat. 6,014,089).

In claims 12 and 24, Tracy does not disclose the network terminating unit further comprising: means operable to detect whether the destination device is active so as to be able to

receive the data and, if said device is active, to transmit the data stored by the network terminating unit to the device. The office notice is taken that detecting whether the destination device is active so as to transmit data to the device is well-known in the art since this concept is widely used in telephone and IP network wherein testing a dial tone of a telephone and sending a ping message to determine telephone or Internet status of user device. Therefore, it would have been obvious to one ordinary skilled in the art determine or detect whether the destination device in Tracy is active so as to transmit request for meter readings.

Allowable Subject Matter

Claims 17, 18, 29 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

In claims 17 and 29, the prior art does not disclose if the time exceeds a predetermined threshold, transmit the data to the destination using one or more of the data channels.

In claims 18 and 30, the prior art does not disclose a network terminating unit comprising means operable to establish the number of messages to be transmitted to a destination device and transmitting data representing said number.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Serbetciouglu et al. (US pat. 5,719,918) discloses short message transaction handling system.

Mundwiler et al. (Pat. 6178173 B 1) discloses System and Method for Communicating Preconnect information in a digital communication system.

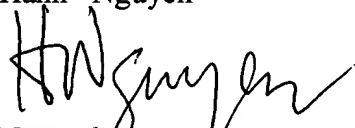
Dunn et al. (Pat. 5,841,836) discloses Network termination equipment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Nguyen whose telephone number is 571 272 3092. The examiner can normally be reached on Monday-FRiday from 8:30 to 4:30PM. The examiner can also be reached on alternate

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chieh Fan, can be reached on 571 272 4032. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hanh Nguyen

A handwritten signature in black ink, appearing to read 'Hanh Nguyen', written over the printed name.

November 15, 2005

HANH NGUYEN
PRIMARY EXAMINER